

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANTOINETTE LITTLEJOHN,

Plaintiff,

v.

AMY KERNKAMP, et al.,

Defendants.

CASE NO. C13-5077 BHS

ORDER DENYING MOTION TO  
PROCEED IN FORMA  
PAUPERIS AND DISMISSING  
COMPLAINT

This matter comes before the Court on Plaintiff Antoine Littlejohn's ("Littlejohn") motion to proceed *in forma pauperis* (Dkt. 1) and proposed complaint (Dkt. 1-1).

On February 1, 2013, Littlejohn filed his motion and complaint alleging that certain state actors released "non-conviction information" in violation of his right under the Fourteenth Amendment of the United States Constitution. Dkt. 1.

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the "privilege of pleading *in forma pauperis* . . . in civil actions for damages should be allowed only in exceptional circumstances." *Wilborn v. Escalderon*, 789 F.2d 1328 (9th

1 Cir. 1986). Moreover, the court has broad discretion in denying an application to proceed  
2 *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied* 375  
3 U.S. 845 (1963).

4 A federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P. 12(b)(6) when  
5 it is clear that the plaintiff has not stated a claim upon which relief may be granted. *See*  
6 *Omar v. Sea Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may  
7 dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) . . . . Such a dismissal may be  
8 made without notice where the claimant cannot possibly win relief.”).

9 In this case, Littlejohn has failed to show that he is entitled to proceed *in forma*  
10 *pauperis* or has failed to state an adequate claim for relief. With regard to his claim,  
11 there is no constitutional right to non-disclosure of police incident reports or  
12 investigations or a right to damages for the lawful retention of public records. Thus,  
13 Littlejohn cannot possibly win relief and has failed to show that exceptional  
14 circumstances exist to allow *in forma pauperis* status. Therefore, the Court denies  
15 Littlejohn’s motion to proceed *in forma pauperis* and dismisses his complaint *sua sponte*  
16 for failure to state a claim.

17 **IT IS SO ORDERED.**

18 Dated this 12th day of February, 2013.

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21 BENJAMIN H. SETTLE  
22 United States District Judge